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8 **IN THE UNITED STATES DISTRICT COURT**
FOR THE
9 **NORTHERN MARIANA ISLANDS**

10 MICHAEL W. KENNEDY dba MKI
AIRCONDITIONING and
11 REFRIGERATION,

12 Plaintiff,

13 vs.

14 ROSALINA T. GABUTIN,
JOSEPH C. GABUTIN,
15 FELIX M. MENDIOLA,
LOURDES T. MENDIOLA,
16 JOAQUIN F. TUDELA, SR. and
EDITH C. TUDELA,

17 Defendants.
18

Civil Action No. CV-03-0016

**MOTION FOR AN ORDER
TO SHOW CAUSE IN RE:
CONTEMPT**

Date:
Time:
Judge: Alex R. Munson

19 COMES NOW MICHAEL W. KENNEDY dba MKI AIRCONDITIONING and
20 REFRIGERATION, Plaintiff herein, by and through its attorneys, Smith & Williams,
21 and moves this Court for an Order to Show Cause in Re: Contempt against Mr. Palokoa
22 Mongkeya for his failure to obey the Court's order dated March 28, 2005.

23 On August 20, 2004, the Court granted Plaintiff's Application for Writ of
24 Execution, and directing said Writ of Execution to "create a lien and continuing levy
25 upon real property, rents, payments, income and profits of Rosalina T. Gabutin, in an
26 amount not exceeding \$88,926.67 plus accrued interest."
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1 On or about June 16, 2004, Mr. Mongkeya entered into a lease agreement with
2 Rosalina Gabutin for Ms. Gabutin's house and lot (Lot No. 016 K 59) in Gatbu Avenue,
3 Dandan.

4 Mr. Mongkeya was provided with a copy of the Court's order and was informed
5 that rent should be paid to Plaintiff.

6 Mr. Mongkeya occupied the premises without paying rent and on March 28, 2005,
7 the Court found that he was in arrears in the amount of \$1,300.00.

8 On March 28, 2005, Mr. Mongkeya was ordered by this Court to: a) pay Plaintiff,
9 through Smith & Williams, the arrearages owed on the rent by installment payments at
10 the rate of \$50.00 per month beginning March 31, 2005; and b) to pay Plaintiff, through
11 the offices of its attorney, Smith & Williams, the monthly rent of \$250.00 on March 31,
12 2005.

13 Mr. Mongkeya disobeyed the Court's order in that he failed to make the payments
14 as promised. On August 26, 2005, Plaintiff filed a Motion for an Order to Show Cause in
15 Re: Contempt against Mr. Mongkeya.

16 On September 1, 2006, Mr. Mongkeya entered into a Stipulation with Plaintiff
17 wherein he promised to pay \$300.00 per month every 30th of the month until his
18 outstanding balance is paid in full. This matter was scheduled for a review hearing on
19 September 30, 2005.

20 On September 30, 2005, Mr. Mongkeya entered into a new stipulation with
21 Plaintiff wherein he promised to pay \$100.00 per payday through a direct-deposit to
22 Smith & Williams' trust account. Mr. Mongkeya informed Plaintiff that he was no longer
23 occupying Rosalina Gabutin's house.

24 Mr. Mongkeya fell in arrears with his payments once again when he stopped
25 making payments on April 6, 2006. As of this date, Mr. Mongkeya's outstanding balance
26 is \$3,408.06.

1 Based on the above, Plaintiff respectfully requests the Court to issue an Order
2 finding Mr. Mongkeya in contempt for failure to obey the Court's order. Additionally,
3 Plaintiff requests that the Court award Plaintiff attorney fees and costs in bringing this
4 motion.

5 This motion is supported by the Declaration of Eric S. Smith and the records and
6 files in this case.

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8 RESPECTFULLY SUBMITTED.

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10 Date: July 5, 2006

11 //Eric S. Smith//
12 ERIC S. SMITH
13 Attorney for the Plaintiff
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